

Exhibit A

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

DOROTHY FRIZZELL,

Plaintiff,

vs.

Case No.

NO

Hon.

2018-004904-N.O

MICHAEL E. SKRYTTO

WAL-MART STORES, INC., a Foreign corporation
individually and d/b/a WAL-MART
STORE #2692

WAL-MART STORES EAST, LIMITED
PARTNERSHIP, a Foreign Limited Partnership,
individually and d/b/a WAL-MART STORE #2692

SAM'S EAST, INC., a Foreign Profit Corporation

Defendants.

RECEIVED
DEC 19 2018
MACOMB COUNTY CLERK

LAW OFFICES OF KELMAN & FANTICH
BRIAN L. FANTICH (P60935)
CARRA J. STOLLER (P64540)
ADAM J. GANTZ (P58558)
Attorneys for Plaintiff
30903 Northwestern Highway, Suite 270
Farmington Hills, MI 48334
(248) 855-0100

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this complaint pending in this court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action, not between these parties, arising out of the same transaction or occurrence as alleged in this complaint that is either pending or was previously filed and dismissed, transferred, or otherwise disposed of after having been assigned to a judge in this court.

COMPLAINT

NOW COMES the above-named Plaintiff, by and through her attorneys, THE LAW
OFFICE KELMAN & FANTICH, and files this Complaint against the Defendant and states as

follows:

1. That Plaintiff is a resident of the City of Mt. Clemens, County of Macomb, State of Michigan.

2. That Defendant WAL-MART STORES, INC., is Foreign corporation, individually and d/b/a WAL-MART STORE #2692, is licensed and doing business as WAL-MART located 45400 Marketplace Blvd, City of Chesterfield, County of Macomb, State of Michigan, with its Resident Agent The Corporation Company located at 40600 Ann Arbor Rd., Ste. 201, Plymouth, MI 48170.

3. That Defendant WAL-MART STORES EAST, LIMITED PARTNERSHIP, is Foreign Limited Partnership, individually and d/b/a WAL-MART STORE #2692, is licensed and doing business as WAL-MART located 45400 Marketplace Blvd, City of Chesterfield, County of Macomb, State of Michigan, with its Resident Agent The Corporation Company located at 40600 Ann Arbor Rd., Ste. 201, Plymouth, MI 48170.

4. That Defendant SAM'S EAST, INC., a Foreign Profit Corporation, is licensed and doing business located at 45400 Marketplace Blvd, City of Chesterfield, County of Macomb, State of Michigan, with its Resident Agent The Corporation Company located at 40600 Ann Arbor Rd., Ste. 201, Plymouth, MI 48170.

5. That the amount in controversy herein exceeds the sum of Twenty Five Thousand (\$25,000.00) Dollars exclusive of costs, interest and attorney fees.

6. That on or about December 29, 2015, the Defendants, did business and was the owners and/or maintainers of real property located at 45400 Marketplace Blvd, City of Chesterfield, County of Macomb, State of Michigan.

7. That on or about December 29, 2015, Defendants had exclusive possession and

control over the area where the incident occurred.

8. That on or about December 29, 2015, Plaintiff was a business invitee at Defendant's establishment located at 45400 Marketplace Blvd, City of Chesterfield, County of Macomb, State of Michigan; that on that date, Plaintiff was walking on Defendants' premises when, suddenly and without warning, she slipped and fell on a slippery, transparent liquid substance that had been allowed to accumulate on the floor for an unreasonable length of time, which blended with the color and contour of the floor and which caused Plaintiff to sustain serious and disabling injuries, as more fully hereinafter set forth.

9. That at all times relevant to the within, the Defendants owed a duty to the Plaintiff to properly maintain the premises and were in a position to best control and prevent the condition exposing the Plaintiff to the unreasonable risk of harm, and knew of the defective and unsafe condition on the floor.

10. That the Defendant owed a duty to the Plaintiff to inspect the area to ensure that the premises would pose no risk of unreasonable harm to those lawfully on the premises.

11. That notwithstanding said knowledge and in total disregard of said duties, the Defendants breached the same by the following omissions, including but not limited to:

- a. Allowing the transparent, wet, slippery condition to remain on the floor for an unreasonable period of time;
- b. Failing to mop, clean and/or inspect the area, thereby negligently and carelessly increasing said hazardous condition;
- c. Negligently and carelessly failing to keep the area in a condition fit for its intended and foreseeable use and allowing said camouflaged hazard to remain in the area where customers were known to traverse;
- d. Failing to warn business invitees and others of the dangerous and hazardous condition on their premises.

12. That Defendants are liable for the negligent actions/inactions of its employees, representatives pursuant to the *doctrine of respondeat superior*.

13. That Defendant's under a separate and distinct duty owed to Plaintiff, are responsible for the active negligence of its employees and are liable to Plaintiff for the injuries sustained to her.

14. That Defendants under a separate and distinct duty owed to Plaintiff's Defendants negligently performed their respective obligations-duties to the detriment of Plaintiff under the contract causing severe and disabling injuries giving rise to tort liability.

15. That Defendants under a separate and distinct duty owed to Plaintiff Defendant's negligently directed/escorted Plaintiff to a defective area on the premises causing Plaintiff to sustain serious and disabling injuries.

16. That Defendants under a separate and distinct duty failed to direct/escort Plaintiff to a safe hazard free area, thereby causing Plaintiff to sustain serious and disabling injuries.

17. The Defendants through a separate and distinct theory of liability are liable to Plaintiff under the doctrine of *res ipsa loquitur* which the defendants breached violated.

18. That Defendants under a separate and distinct duty owed to Plaintiff Defendants through their respective active negligence created a new hazard altering the premises which posed an unreasonable risk of harm to the detriment of Plaintiff causing severe and disabling injuries.

19. That as a direct and proximate result of the negligence and carelessness of Defendants, and all of them, the Plaintiff sustained damages including, but not necessarily limited to:

- a. Severe injuries to right hip resulting in nerve damage; injuries to head and neck; cognitive deficits, neurological deficits, headaches; injuries to right shoulder; injuries to her back and spine resulting in nerve damage; severe injuries to her upper and lower extremities; diminished extension, flexion, and range of motion; decrease in gross and fine motor skills; severe shock, as well as physical pain and suffering;
 - b. The requirement of intense therapy for injuries which are permanent in nature;
 - c. Severe humiliation and embarrassment, which is of an ongoing and permanent nature;
 - d. Loss of full ability to perform the normal vocational and avocational activities of life, and which prevent Plaintiff from participating in recreational activities, which loss is permanent;
 - e. Past, present and future hospital, medical, and pharmaceutical bills for treatment and medication;
 - f. Severe, frequent and persistent pain which is of a continuing and permanent nature.
20. That Defendants enjoyed joint possession and control over the premises where Plaintiff was injured.
21. That Defendant's have breached their respective duties under the International Property Maintenance Code (2009 Edition) and Building Construction Ordinance Section 302.3, which is applicable under MCLA 554.139. Said statutory/code breach caused Plaintiff's severe injuries to her detriment.
22. That in the event that Plaintiff was suffering from any other medical and/or emotional condition, then in that event, Plaintiff claims that those conditions were precipitated, aggravated and/or accelerated by reason of the foregoing incident herein described.

WHEREFORE, Plaintiff prays for Judgment against the Defendant in whatever amount above Twenty Five Thousand Dollars (\$25,000.00) that Plaintiff may be found to be entitled plus costs, interest and attorney fees so wrongfully sustained.

Dated: December 18, 2018

LAW OFFICE OF KELMAN & FANTICH

By: 

BRIAN L. FANTICH P-60935

Attorney for Plaintiff

30903 Northwestern Hwy., Ste. 270

Farmington Hills, MI 48334

(248) 855-0100

Approved, SCAO

Original - Court
1st copy - Defendant2nd copy - Plaintiff
3rd copy - ReturnSTATE OF MICHIGAN
JUDICIAL DISTRICT
16TH JUDICIAL CIRCUIT
COUNTY PROBATE

SUMMONS

CASE NO.

2018-004904-N0

Court address

40 N. MAIN STREET, MT. CLEMENS, MI

Court telephone no.

Plaintiff's name(s), address(es), and telephone no(s).

DOROTHY FRIZZELL

Plaintiff's attorney, bar no., address, and telephone no.

BRIAN L. FANTICH (P60935)
CARA J. STOLLER (P64540)
ADAM J. GANTZ (P58358)
30903 NORTHWESTERN HWY., STE. 270
FARMINGTON HILLS, MI 48334

Defendant's name(s), address(es), and telephone no(s).

WAL-MART STORES, INC., a Foreign Corporation,
Individually and d/b/a WAL-MART STORE #2692WAL-MART STORES EAST, LIMITED PARTNERSHIP,
a Foreign Limited Partnership, individually and d/b/a
WAL-MART STORE #2692

SAM'S EAST, INC., a Foreign Profit Corporation

Instructions: Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (form MC 21). The summons section will be completed by the court clerk.

Domestic Relations Case

- ☐ There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
- ☐ There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. Attached is a completed case inventory (form MC 21) listing those cases.
- ☐ It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

Civil Case

- ☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- ☐ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has

been previously filed in ☒ this court, ☐ _____ Court, where

it was given case number _____ and assigned to Judge _____.

The action ☐ remains ☒ is no longer pending.

Summons section completed by court clerk.

SUMMONS

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. YOU HAVE 21 DAYS after receiving this summons and a copy of the complaint to file a written answer with the court and serve a copy on the other party or take other lawful action with the court (28 days if you were served by mail or you were served outside this state).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date DEC 19 2018	Expiration date* MAR 6 2019	Court clerk Tina Miller
---------------------------	--------------------------------	----------------------------

*This summons is invalid unless served on or before the expiration date. This document must be sealed by the clerk of the court.

MC 01 (8/18) SUMMONS

MCR 1.109(D), MCR 2.102(B), MCR 2.104, MCR 2.105

SUMMONSCase No. 2018-004904-NO**PROOF OF SERVICE**

TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE☐ **OFFICER CERTIFICATE**

OR

☐ **AFFIDAVIT OF PROCESS SERVER**

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A](2)), and that: (notarization not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

☐ I served personally a copy of the summons and complaint.

☐ I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint,

together with E-FILE Notice
 List all documents served with the summons and complaint _____

Plaintiff's Request for Production of Documents/Things, Requests to Admit/Interrogatories to Defendant _____

_____ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time
	Wal-Mart Stores East, Limited Partnership d/b/a Wal-Mart Store #2692 c/o The Corporation Company 40600 Ann Arbor Road, E., Ste. 201 Plymouth, MI 48170	

☐ I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare under the penalties of perjury that this proof of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee	TOTAL FEE	Signature
\$		\$		
Incorrect address fee	Miles traveled	Fee	TOTAL FEE	Name (type or print)
\$		\$		
				Title

Subscribed and sworn to before me on _____ Date _____ County, Michigan.

My commission expires: _____ Date _____ Signature: _____ Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with _____ Attachments

_____ on _____ Day, date, time

Signature _____ on behalf of _____



FRED MILLER

Chief Deputy Clerk

Macomb County
Clerk/ Register of Deeds

Deputy Register of Deeds

TO: Court Customer
FROM: Macomb County Clerk / Register of Deeds

CIRCUIT COURT CASE NUMBER: 2018-004904-ND

JUDGE: Michael E. Serivito

This is to inform you that the above mentioned case is deemed an eFiling case pursuant to Administrative Order No. 2010-06.

It is MANDATORY that all further filings in this matter are to be filed electronically through the court's eFiling website at:

<http://mfile.courts.michigan.gov>

Registration instructions, filing instructions, the administrative order and frequently asked questions can be found on the court's website at:

<http://circuitcourt.macombgov.org/CircuitCourt-eFilingResources>

All parties must register with the court and opposing parties one e-mail address for service. Service will be provided electronically to this email address. All parties must also register this email address with the TrueFiling e-filing system. Each individual bears the responsibility for the accuracy of the registered email address.

For TrueFiling technical support. Please call 1-855-959-8868 or send an email to support@truefiling.com.

It is required that you serve this notification to all parties when perfecting service on the complaint. Also if you have not previously provided your email address to our office when submitting documents for filing, it is now required that you furnish it in order for us to update our records accordingly.

If you need help in submitting your filing electronically, assistance is available in the Circuit Court I.T. Department on the 6th Floor. Computers, scanners and staff are available to assist you during normal business hours 8 a.m.- 4:30 p.m.

Clerk's Office
40 North Main Street 1st Floor, Mount Clemens, MI 48043
588-469-5120, clerksoffice@macombgov.org
clerk.macombgov.org

Register of Deeds
120 N. Main Street Mount Clemens, MI 48043
588-469-7853, registerofdeeds@macombgov.org
rod.macombgov.org